

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

RUSSELL MARTINEZ,

Plaintiff,

v.

No. 1:14-cv-00534 KBM/WPL

JOSEPH SALAZAR, in his individual capacity,  
GREG ESPARZA, in his individual capacity,  
THE ESPANOLA DEPARTMENT OF PUBLIC  
SAFETY, LEO MONTOYA, THE CITY OF  
ESPANOLA, MARVIN ARMIJO, in his  
individual capacity, ANTHONY ARMIJO, in his  
individual capacity, JAMES CULIN, in his  
individual capacity, MANUEL VALDEZ, in his  
individual capacity, GUY JORDAN, in his  
individual capacity, THE BOARD OF COUNTY  
COMMISSIONERS OF RIO ARriba COUNTY,  
THE RIO ARriba COUNTY SHERIFF'S OFFICE,  
THOMAS RODELLA, in his individual and official  
capacities, LARRY DEYAPP, in his individual and  
official capacities, UNKNOWN NUMBER OF  
JOHN DOES, employees of the Rio Arriba County  
Adult Detention Facility, in their individual capacities,  
and FERNANDO BAYARDO, M.D.,

Defendants.

**ANSWER OF DEFENDANT FERNANDO BAYARDO, M.D.**

Defendant Fernando Bayardo, M.D., for his answer to Plaintiff's complaint, alleges and states as follows:

**FIRST DEFENSE**

1. Answering paragraph 1 of Plaintiff's complaint, Defendant admits that jurisdiction and venue were proper under NMSA 1978, § 41-4-18 (1976), in the state court from

which this action was removed, and Defendant further admits that jurisdiction and venue are proper in this Court following removal from state court.

2. Answering paragraph 2 of Plaintiff's complaint, Defendant admits that the state court from which this action was removed had jurisdiction over Plaintiff's federal claims under N.M. Const. art. VI, § 13, and Defendant further admits that this Court has jurisdiction over the claims following removal from state court.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of Plaintiff's complaint, and therefore denies the same.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiff's complaint, and therefore denies the same.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of Plaintiff's complaint, and therefore denies the same.

6. Answering paragraph 6 of Plaintiff's complaint, Defendant admits on information and belief the allegations contained in the first sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiff's complaint, and therefore denies the same.

8. Answering paragraph 8 of Plaintiff's complaint, Defendant admits the allegations contained in the first sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiff's complaint, and therefore denies the same.

10. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiff's complaint, and therefore denies the same.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiff's complaint, and therefore denies the same.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of Plaintiff's complaint, and therefore denies the same.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiff's complaint, and therefore denies the same.

14. Answering paragraph 14 of Plaintiff's complaint, Defendant admits that Defendant Board of County Commissioners of Rio Arriba County is a municipal corporation organized and/or existing under the laws of the State of New Mexico. Defendant is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

15. Answering paragraph 15 of Plaintiff's complaint, Defendant admits the allegations contained in the first sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Plaintiff's complaint, and therefore denies the same.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of Plaintiff's complaint, and therefore denies the same.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of Plaintiff's complaint, and therefore denies the same.

19. Answering paragraph 19 of Plaintiff's complaint, Defendant admits that he is an emergency medicine physician employed by Presbyterian Healthcare Services at Presbyterian Espanola Hospital ("Espanola Hospital") in Espanola, New Mexico.

20. Answering paragraph 20 of Plaintiff's complaint, Defendant admits on information and belief that Plaintiff suffered gunshot wounds that rendered him paraplegic and required the amputation of his left lower leg. Defendant further admits that at the time of Plaintiff's visits to the emergency room on May 11, 2012, Plaintiff had a suprapubic catheter and

was wearing a diaper. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

21. Answering paragraph 21 of Plaintiff's complaint, Defendant admits that Plaintiff developed a decubitus ulcer on his buttocks before May 11, 2012. Defendant also admits the allegations contained in the second sentence of the paragraph. Defendant further admits that decubitus ulcers can be caused by pressure resulting from prolonged sitting or lying in one position, which causes the skin and muscle tissue to deteriorate. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

22. Answering paragraph 22 of Plaintiff's complaint, Defendant admits that a person with a decubitus ulcer on the buttock should avoid prolonged sitting and, if he cannot turn himself, should be turned frequently to avoid placing undue pressure on any one location. Defendant further admits that a decubitus ulcer that does not receive proper treatment can become infected, placing the individual at risk for systemic infection and eventually presenting a threat of septic shock. Defendant also admits that, if left untreated, an advanced septic infection of a decubitus ulcer can potentially lead to death within a matter of days. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of Plaintiff's complaint, and therefore denies the same.

24. Defendant denies the allegations contained in paragraph 24 of Plaintiff's complaint.

25. Answering paragraph 25 of Plaintiff's complaint, Defendant admits that Plaintiff's ulcer was sufficiently stabilized to be managed in an outpatient setting at the time of his second visit to the emergency room on May 11, 2012. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of Plaintiff's complaint, and therefore denies the same.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of Plaintiff's complaint, and therefore denies the same.

28. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of Plaintiff's complaint, and therefore denies the same.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of Plaintiff's complaint, and therefore denies the same.

30. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of Plaintiff's complaint, and therefore denies the same.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of Plaintiff's complaint, and therefore denies the same.

32. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of Plaintiff's complaint, and therefore denies the same.

33. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of Plaintiff's complaint, and therefore denies the same.

34. Answering paragraph 34 of Plaintiff's complaint, Defendant admits that a Taser is a weapon that sends up to 50,000 volts of electricity through a person's body, causing temporary paralysis. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

35. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of Plaintiff's complaint, and therefore denies the same.

36. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of Plaintiff's complaint, and therefore denies the same.

37. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of Plaintiff's complaint, and therefore denies the same.

38. Defendant admits the allegations contained in paragraph 38 of Plaintiff's complaint.

39. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of Plaintiff's complaint, and therefore denies the same.

40. Answering paragraph 40 of Plaintiff's complaint, Defendant admits that at approximately 7:30 p.m. on the evening in question, a Santa Fe County correctional officer informed the emergency room staff that the medical facility at the Santa Fe jail would be unable to care for Plaintiff. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

41. Answering paragraph 41 of Plaintiff's complaint, Defendant admits that Espanola Hospital emergency room records indicate that in light of Plaintiff's chronic medical conditions, the hospital refused to medically clear Plaintiff for jail. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

42. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of Plaintiff's complaint, and therefore denies the same.

43. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of Plaintiff's complaint, and therefore denies the same.

44. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of Plaintiff's complaint, and therefore denies the same.



45. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of Plaintiff's complaint, and therefore denies the same.

46. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of Plaintiff's complaint, and therefore denies the same.

47. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of Plaintiff's complaint, and therefore denies the same.

48. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of Plaintiff's complaint, and therefore denies the same.

49. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of Plaintiff's complaint, and therefore denies the same.

50. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of Plaintiff's complaint, and therefore denies the same.

51. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of Plaintiff's complaint, and therefore denies the same.

52. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of Plaintiff's complaint, and therefore denies the same.

53. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of Plaintiff's complaint, and therefore denies the same.

54. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of Plaintiff's complaint, and therefore denies the same.

55. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of Plaintiff's complaint, and therefore denies the same.

56. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of Plaintiff's complaint, and therefore denies the same.

57. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of Plaintiff's complaint, and therefore denies the same.

58. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of Plaintiff's complaint, and therefore denies the same.

59. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of Plaintiff's complaint, and therefore denies the same.

60. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of Plaintiff's complaint, and therefore denies the same.

61. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of Plaintiff's complaint, and therefore denies the same.

62. Answering paragraph 62 of Plaintiff's complaint, Defendant admits that paramedics transported Plaintiff to Espanola Hospital and that law enforcement officers sought to have Plaintiff medically cleared for jail. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

63. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of Plaintiff's complaint, and therefore denies the same.

64. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of Plaintiff's complaint, and therefore denies the same.

65. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of Plaintiff's complaint, and therefore denies the same.

66. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of Plaintiff's complaint, and therefore denies the same.

67. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of Plaintiff's complaint, and therefore denies the same.

68. Answering paragraph 68 of Plaintiff's complaint, Defendant denies the allegations contained in the second sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

69. Answering paragraph 69 of Plaintiff's complaint, Defendant admits that upon Plaintiff's arrival at Espanola Hospital, a nurse examined Plaintiff and made notes of the examination. Defendant admits the allegations contained in the second and third sentences of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

70. Answering paragraph 70 of Plaintiff's complaint, Defendant admits that he knew of Plaintiff's prior visit to Espanola Hospital that day and that Santa Fe jail personnel had claimed an inability to care for Plaintiff in the jail's medical facility. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

71. Answering paragraph 71 of Plaintiff's complaint, Defendant admits that he medically cleared Plaintiff for jail after assessing Plaintiff. Defendant also admits the allegations contained in the second sentence of the paragraph. Defendant denies that his assessment of

Plaintiff was “cursory.” Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

72. Defendant admits the allegations contained in paragraph 72 of Plaintiff’s complaint.

73. Defendant admits the allegations contained in paragraph 73 of Plaintiff’s complaint on information and belief.

74. Defendant denies the allegations contained in paragraph 74 of Plaintiff’s complaint.

75. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of Plaintiff’s complaint, and therefore denies the same.

76. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of Plaintiff’s complaint, and therefore denies the same.

77. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of Plaintiff’s complaint, and therefore denies the same.

78. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of Plaintiff’s complaint, and therefore denies the same.

79. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of Plaintiff’s complaint, and therefore denies the same.

80. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of Plaintiff's complaint, and therefore denies the same.

81. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of Plaintiff's complaint, and therefore denies the same.

82. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of Plaintiff's complaint, and therefore denies the same.

83. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of Plaintiff's complaint, and therefore denies the same.

84. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of Plaintiff's complaint, and therefore denies the same.

85. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of Plaintiff's complaint, and therefore denies the same.

86. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of Plaintiff's complaint, and therefore denies the same.

87. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of Plaintiff's complaint, and therefore denies the same.

88. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of Plaintiff's complaint, and therefore denies the same.

89. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of Plaintiff's complaint, and therefore denies the same.

90. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of Plaintiff's complaint, and therefore denies the same.

91. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of Plaintiff's complaint, and therefore denies the same.

92. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of Plaintiff's complaint, and therefore denies the same.

93. Answering paragraph 93 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

94. Defendant admits the allegations contained in paragraph 94 of Plaintiff's complaint.

95. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of Plaintiff's complaint, and therefore denies the same.

96. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of Plaintiff's complaint, and therefore denies the same.

97. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of Plaintiff's complaint, and therefore denies the same.

98. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of Plaintiff's complaint, and therefore denies the same.

99. Answering paragraph 99 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

100. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of Plaintiff's complaint, and therefore denies the same.

101. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of Plaintiff's complaint, and therefore denies the same.



102. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 102 of Plaintiff's complaint, and therefore denies the same.

103. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of Plaintiff's complaint, and therefore denies the same.

104. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of Plaintiff's complaint, and therefore denies the same.

105. Answering paragraph 105 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

106. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of Plaintiff's complaint, and therefore denies the same.

107. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of Plaintiff's complaint, and therefore denies the same.

108. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of Plaintiff's complaint, and therefore denies the same.

109. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 109 of Plaintiff's complaint, and therefore denies the same.

110. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of Plaintiff's complaint, and therefore denies the same.

111. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 111 of Plaintiff's complaint, and therefore denies the same.

112. Answering paragraph 112 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

113. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 113 of Plaintiff's complaint, and therefore denies the same.

114. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 of Plaintiff's complaint, and therefore denies the same.

115. Answering paragraph 115 of Plaintiff's complaint, Defendant denies that he deprived Plaintiff of any constitutional or other rights. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

116. Answering paragraph 116 of Plaintiff's complaint, Defendant denies the allegations contained in the second sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

117. Answering paragraph 117 of Plaintiff's complaint, Defendant denies that he acted maliciously or in callous disregard of Plaintiff's rights. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

118. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of Plaintiff's complaint, and therefore denies the same.

119. Answering paragraph 119 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

120. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 of Plaintiff's complaint, and therefore denies the same.

121. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of Plaintiff's complaint, and therefore denies the same.

122. Answering paragraph 122 of Plaintiff's complaint, Defendant denies that he deprived Plaintiff of any constitutional or other rights. Defendant is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

123. Answering paragraph 123 of Plaintiff's complaint, Defendant denies the allegations contained in the second sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

124. Answering paragraph 124 of Plaintiff's complaint, Defendant denies that he acted maliciously or in callous disregard of Plaintiff's rights. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

125. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 of Plaintiff's complaint, and therefore denies the same.

126. Answering paragraph 126 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

127. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of Plaintiff's complaint, and therefore denies the same.

128. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 128 of Plaintiff's complaint, and therefore denies the same.

129. Answering paragraph 129 of Plaintiff's complaint, Defendant denies the allegations contained in the second sentence of the paragraph. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

130. Defendant denies the allegations contained in paragraph 130 of Plaintiff's complaint.

131. Defendant denies the allegations contained in paragraph 131 of Plaintiff's complaint.

132. Defendant denies the allegations contained in paragraph 132 of Plaintiff's complaint.

133. Defendant denies the allegations contained in paragraph 133 of Plaintiff's complaint.

134. Answering paragraph 134 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

135. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 135 of Plaintiff's complaint, and therefore denies the same.

136. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 136 of Plaintiff's complaint, and therefore denies the same.

137. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 137 of Plaintiff's complaint, and therefore denies the same.

138. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 138 of Plaintiff's complaint, and therefore denies the same.

139. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 139 of Plaintiff's complaint, and therefore denies the same.

140. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of Plaintiff's complaint, and therefore denies the same.

141. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 of Plaintiff's complaint, and therefore denies the same.

142. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 142 of Plaintiff's complaint, and therefore denies the same.

143. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 of Plaintiff's complaint, and therefore denies the same.

144. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 144 of Plaintiff's complaint, and therefore denies the same.

145. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 145 of Plaintiff's complaint, and therefore denies the same.

146. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 146 of Plaintiff's complaint, and therefore denies the same.

147. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 147 of Plaintiff's complaint, and therefore denies the same.

148. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 148 of Plaintiff's complaint, and therefore denies the same.

149. Answering paragraph 149 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

150. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 150 of Plaintiff's complaint, and therefore denies the same.

151. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 151 of Plaintiff's complaint, and therefore denies the same.

152. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 152 of Plaintiff's complaint, and therefore denies the same.

153. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 153 of Plaintiff's complaint, and therefore denies the same.

154. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 154 of Plaintiff's complaint, and therefore denies the same.

155. Answering paragraph 155 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

156. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 156 of Plaintiff's complaint, and therefore denies the same.

157. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157 of Plaintiff's complaint, and therefore denies the same.



158. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 158 of Plaintiff's complaint, and therefore denies the same.

159. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 159 of Plaintiff's complaint, and therefore denies the same.

160. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 160 of Plaintiff's complaint, and therefore denies the same.

161. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 161 of Plaintiff's complaint, and therefore denies the same.

162. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 162 of Plaintiff's complaint, and therefore denies the same.

163. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 163 of Plaintiff's complaint, and therefore denies the same.

164. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 164 of Plaintiff's complaint, and therefore denies the same.

165. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 165 of Plaintiff's complaint, and therefore denies the same.

166. Answering paragraph 166 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

167. Answering paragraph 167 of Plaintiff's complaint, Defendant admits that Plaintiff, as a paraplegic, has a physical impairment and a disability. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the paragraph, and therefore denies the same.

168. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 168 of Plaintiff's complaint, and therefore denies the same.

169. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 169 of Plaintiff's complaint, and therefore denies the same.

170. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 170 of Plaintiff's complaint, and therefore denies the same.

171. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 171 of Plaintiff's complaint, and therefore denies the same.

172. Answering paragraph 172 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

173. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 173 of Plaintiff's complaint, and therefore denies the same.

174. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 174 of Plaintiff's complaint, and therefore denies the same.

175. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 175 of Plaintiff's complaint, and therefore denies the same.

176. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 176 of Plaintiff's complaint, and therefore denies the same.

177. Answering paragraph 177 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

178. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 178 of Plaintiff's complaint, and therefore denies the same.

179. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 179 of Plaintiff's complaint, and therefore denies the same.

180. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 180 of Plaintiff's complaint, and therefore denies the same.

181. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 181 of Plaintiff's complaint, and therefore denies the same.

182. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 182 of Plaintiff's complaint, and therefore denies the same.

183. Answering paragraph 183 of Plaintiff's complaint, Defendant incorporates the foregoing responses to the allegations of Plaintiff's complaint as if the same were fully set forth herein.

184. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 184 of Plaintiff's complaint, and therefore denies the same.

185. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 185 of Plaintiff's complaint, and therefore denies the same.

186. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 186 of Plaintiff's complaint, and therefore denies the same.

187. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 187 of Plaintiff's complaint, and therefore denies the same.

188. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 188 of Plaintiff's complaint, and therefore denies the same.

189. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 189 of Plaintiff's complaint, and therefore denies the same.

190. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 190 of Plaintiff's complaint, and therefore denies the same.

191. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 191 of Plaintiff's complaint, and therefore denies the same.

#### SECOND DEFENSE

The complaint or portions thereof fail to state a claim on which relief can be granted.

#### THIRD DEFENSE

Defendant was not a state actor, and his conduct did not amount to state action.

FOURTH DEFENSE

Defendant is entitled to qualified or good-faith immunity.

FIFTH DEFENSE

The constitutional rights of which Plaintiff claims to have been deprived by Defendant were not clearly established.

SIXTH DEFENSE

Defendant provided Plaintiff with medically appropriate care.

SEVENTH DEFENSE

Any award of punitive damages would be unwarranted by the facts and contrary to the United States Constitution.

WHEREFORE, Defendant prays that Plaintiff's complaint and all claims and causes of action therein be dismissed with prejudice, and that Defendant recover his costs, attorneys' fees, and whatever further relief the Court deems just and proper.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By /s/ Charles K. Purcell

Charles K. Purcell

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We hereby certify that via the  
CM/ECF system, we have  
electronically filed the foregoing  
pleading and served it on

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this 18th day of August, 2014.

/s/ Charles K. Purcell  
Charles K. Purcell